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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ABYANEH, ALI S

ART UNIT PAPER NUMBER

2133

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/028,164

Applicant(s)

MESSERGES ET AL.

Examiner

Ali S. Abyaneh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06-17-05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The text of those sections of title 35, U.S. Code not included in this section can be found in the prior office action.
2. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.
3. The declaration filed on 06-07-05 under 37 CFR 1.131 has been acknowledged.
4. Claims 1-25 are pending.

### **Information Disclosure Statement PTO-1449**

5. The Information Disclosure Statement submitted by applicant on 06-17-2005 has been considered. Please see attached PTO-1449.

### **Response to Arguments**

6. The declaration filed on 06-07-05 under 37 CFR 1.131 has been considered but is ineffective to overcome the Bolosky reference (US Publication No 2002/0194484).
  - a. Based on the evidence supplied, it appears that applicant is relying on conception prior to the effective date of the reference, followed by diligence until the US filing date.

**Insufficient evidence of Conception Before References Date**

b. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Bolosky reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). Each exhibit relied upon should be specifically referred to in the affidavit or declaration, in terms of what it is relied upon to show. Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by Applicant (see MPEP 715.07).

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at

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33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164 (CCPA 1964)

(Affidavit “asserts that facts exist but does not tell what they are or when they occurred.”).

#### **Insufficient evidence of Diligence Before References Date**

C. Per MPEP 715.07(a)

In determining the sufficiency of a 37 CFR 1.131 affidavit or declaration, diligence need not be considered unless conception of the invention prior to the effective date is clearly established, since diligence comes into question only after prior conception is established. *Ex parte Kantor*, 177 USPQ 455 (Bd. App. 1958).

However for purpose of prosecution, the examiner notes that the evidence submitted by applicant is insufficient to establish diligence from a date prior to the effective date of the Bolosky reference (March 21, 2001) to the US filing date of this application (Oct 25, 2001). Applicant merely stated that applicant has been diligent from prior to March 21, 2001 to October 25,2001,without providing supporting evidence indicating activities between March 21, 2001 and October 25,2001. For example *“During this time period, we continually worked toward preparing the pending patent application for filing with the USPTO”* does not constitute an account of affirmative acts or acceptable excuses occurring between March 21, 2001 and October 25,2001.

Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent. *Ex parte Hunter*, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence.

### ***Claim Rejections - 35 USC § 102***

7. Claims 1-3, 9 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by William J. Bolosky et al. (US Publication NO. 2002/0194484)

#### **Regarding Claim 1**

Bolosky teaches a method of creating a signed content hash, comprising: dividing content into a plurality of chunks of content (paragraph [0072]); hashing each chunk of the plurality of chunks of content into a hash table; and signing the hash table ((paragraph [0074] and [0168] –[170]) (examiner considers array 504 as applicant's hash table and manifest as applicant's signed hash table)).

#### **Regarding Claim 2**

Bolosky teaches all limitation of the claim as applied to claim 1 above and furthermore he teaches a method, wherein hashing each chunk of the plurality of chunks of content into the hash table comprises: calculating a chunk hash of each chunk of the plurality of chunks of

content to provide a plurality of chunk hashes corresponding to the plurality of chunks of content; and storing the plurality of chunk hashes in the hash table (paragraph [0072] and [0074]).

### **Regarding Claim 3**

Bolosky teaches all limitation of the claim as applied to claim 1 above and furthermore he teaches a method, wherein dividing the content into the plurality of chunks of content and hashing each chunk of the plurality of chunks of content into the hash table is repeated a plurality of times to create a corresponding plurality of hash tables (fig 5 and paragraph [0074]).

### **Regarding Claim 9**

Bolosky teaches a method of authenticating a content hash, comprising: authenticating a hash table containing a plurality of chunk hashes corresponding to a plurality of chunks of content ((paragraph [0072], [0074] and [0148]-[0151]) (examiner considers array 504 as applicant's hash table)); dividing the content into a plurality of chunks of content (paragraph [0072]); and authenticating each chunk of the plurality of chunks of content (paragraph [0148]-[0151]).

**Regarding Claim 15**

Bolosky teaches all limitation of the claim as applied to claim 9 above and furthermore he teaches a method, wherein authenticating each chunk of the plurality of chunks of content comprises: calculating a recalculated chunk hash of the chunk of content to provide a recalculated chunk hash corresponding to the chunk of content; comparing the recalculated chunk hash to the chunk hash of the chunk stored in the hash table; and if the recalculated chunk hash matches the chunk hash of the chunk stored in the hash table, verifying the authenticity of the chunk (paragraph [0148]-[0151]).

**Regarding Claims 16 and 17**

Bolosky teaches all limitation of the claim as applied to claim 15 above and furthermore he teaches a method comprising: processing the chunk of content by having the recalculated chunk hash of the chunk of content calculated concurrently with calculating the recalculated chunk hash of the chunk and decrypting the chunk of content (paragraph [0156]); and rendering the chunk of content to the user (paragraph [0160]).

**Regarding Claim 18**

Bolosky teaches all limitation of the claim as applied to claim 9 above and furthermore he teaches a method, wherein dividing the content into the plurality of chunks of content and authenticating each chunk of the



plurality of chunks of content is repeated a plurality of times to authenticate a corresponding plurality of hash tables (paragraph [0072]-[0075]).

***Claim Rejections - 35 USC § 103***

8. Claims 4-8, 10-14 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over William J. Bolosky et al. (US Publication NO. 2002/0194484) in view of Larry C. Puhl et al. (US Patent NO. 6,223,291).

**Regarding Claims 4, 5 and 6**

Bolosky teaches all limitation of the claim as applied to claim 1 above and furthermore teaches hash table in its entirety and comprises an overall hash of the hash table (paragraph [0159] and [0160]). Bolosky does not explicitly teach, wherein signing the hash table comprises: **creating a certificate of authenticity of the hash table; signing the certificate of authenticity of the hash table** and wherein **the certificate of authenticity of the hash table** comprises the hash table in its entirety and comprises an overall hash of the hash table. However, in an analogous art, Puhl teaches a method of **certificate of authenticity of the hash and signing the certificate of authenticity of the hash** (column 4, lines 30-35). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to

modify Bolosky's method to include **certificate of authenticity of the hash table; signing the certificate of authenticity of the hash table** and **certificate of authenticity of the hash table** comprising the hash table in its entirety and an overall hash of the hash table. This would have been obvious because person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to verify the integrity of content by comparing a computed hash with the hash result in the certificate (column 4, lines 29-30).

#### **Regarding Claim 7**

Bolosky and Puhl teaches all limitation of the claim as applied to claim 6 above and furthermore Bolosky teaches a method, wherein creating the overall hash of the hash table comprises: hashing the plurality of chunk hashes stored in the hash table to create the overall hash of the hash table (paragraph [0109]-[0115]).

#### **Regarding Claim 8**

Bolosky and Puhl teach all limitation of the claim as applied to claim 4 above and furthermore Puhl teaches a method, wherein the certificate of authenticity of the hash table comprises additional information relating to the content and a set of rules governing the use of the content (column 3, lines 5-10).

**Regarding Claims 10, 11 and 12**

Bolosky teach all limitation of the claim as applied to claim 9 above and furthermore teaches a method of verifying a signature of a hash table and if the signature is verified authenticating the hash table and verifying the signature comprising the hash table in its entirety and if the signature of containing the hash table in its entirety is verified, verifying the authenticity of the hash table; verifying a signature comprising an overall hash of the hash table; calculating a recalculated overall hash of the hash table; and if the recalculated overall hash of the hash table matches the overall hash of the hash table, verifying the authenticity of the hash table and if the signature is verified, verifying the authenticity of the hash table (paragraph [0148]-[0151]). Bolosky does not explicitly teach verifying a **certificate of authenticity** of the hash table; and if the **certificate of authenticity** of the hash table is verified, authenticating the hash table and verifying a signature of the **certificate of authenticity** comprising the hash table in its entirety and if the signature of the **certificate of authenticity** containing the hash table in its entirety is verified, verifying the authenticity of the hash table and verifying a signature of the **certificate of authenticity** comprising an overall hash of the hash table; calculating a recalculated overall hash of the hash table; and if the recalculated overall hash of the hash table matches the overall hash of the hash table and if the signature is verified,, verifying the authenticity of the hash table. However, in an analogous art, Puhl teaches a method of

verifying a **certificate of authenticity** of the hash and verifying a signature of the **certificate of authenticity** (column 3, lines 60-67 and column 4, lines 1-10). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bolosky's method to include verifying a **certificate of authenticity** of the hash table; and if the **certificate of authenticity** of the hash table is verified, authenticating the hash table and verifying a signature of the **certificate of authenticity** comprising the hash table in its entirety and if the signature of the **certificate of authenticity** containing the hash table in its entirety is verified, verifying the authenticity of the hash table and verifying a signature of the **certificate of authenticity** comprising an overall hash of the hash table; calculating a recalculated overall hash of the hash table; and if the recalculated overall hash of the hash table matches the overall hash of the hash table, verifying the authenticity of the hash table and if the signature is verified, verifying the authenticity of the hash table. This would have been obvious because person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to verify the integrity of the content by comparing computed hash with the hash result stored in the certificate (column 4, lines 26-31).

**Regarding Claim 13**

Bolosky and Puhl teach all limitation of the claim as applied to claim 12 above and furthermore Bolosky teaches a method, wherein calculating the recalculated overall hash of the hash table comprises: hashing the plurality of chunk hashes stored in the hash table to create the recalculated overall hash of the hash table (paragraph [0148]-[0151]).

**Regarding Claim 14**

Bolosky and Puhl teach all limitation of the claim as applied to claim 10 above and furthermore Puhl teaches a method, wherein verifying the certificate of authenticity of the hash further comprises: verifying additional information in the certificate of authenticity of the hash relating to the content and a set of rules governing the use of the content (column 3, lines 5-10).

**Regarding Claim 19**

Bolosky teaches a method of authenticating digital content, comprising: calculating an overall hash of a hash table; containing a plurality of chunk hashes corresponding to a plurality of chunks of content (([paragraph [0109]-[0115], [0072]-[0074]) (examiner considers array 504 as applicant's hash table)). Bolosky furthermore teaches comparing the hash value to the stored hash value for verification purpose (paragraph [0164]). Bolosky does not explicitly teach comparing the overall hash of

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the hash table to **a hash contained in a certificate**; and if the overall hash of the hash table matches the **hash of the certificate**, verifying the authenticity of the plurality of chunks of the content. However, in an analogous art, Puhl teaches a method wherein a computed hash is compared with a hash contained in the certificate (column 4, lines 30-5). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bolosky's method to include comparing the overall hash of the hash table to **a hash contained in a certificate**; and if the overall hash of the hash table matches the **hash of the certificate**, verifying the authenticity of the plurality of chunks of the content. This would have been obvious because person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to verify the integrity of the content by comparing computed hash with the hash result stored in the certificate (column 4, lines 26-31).

### Regarding Claim 20

Bolosky and Puhl teach all limitation of the claim as applied to claim 19 above and furthermore Bolosky teaches a method, wherein further comprises for each chunk of the plurality of chunks of content: calculating a hash of the chunk to create a chunk hash of the chunk (paragraph [0074]); comparing the chunk hash to a stored chunk hash of the chunk stored in the hash table; and if the chunk hash matches the stored chunk

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hash, verifying the authenticity of the chunk (fig 9 and paragraph [0148]-[0151]).

#### **Regarding Claim 21**

Bolosky and Puhl teach all limitation of the claim as applied to claim 20 above and furthermore Bolosky teaches a method, wherein contemporaneously with calculating the hash of the chunk to create the chunk hash of the chunk, further comprising: decrypting the chunk to provide a chunk of decrypted content of the content package (paragraph [0156]); and rendering the chunk of decrypted content of the content package (paragraph [0160]).

#### **Regarding Claim 22**

Bolosky teaches a method of authenticating digital content, comprising: dividing content of a content package into a plurality of chunks of content (paragraph [0072]); calculating a chunk hash of each chunk of the plurality of chunks of content to provide a plurality of chunk hashes stored in a hash table corresponding to the plurality of chunks of content ((paragraph [0072] and [0074]) (examiner considers array 504 as applicant's hash table)); hashing the plurality of chunk hashes of the hash table to create an overall hash of the content of the content package (paragraph [109]-[0115]); determining whether a recalculated overall hash

of the hash table matches the overall hash of the hash table; if the recalculated hash of the hash table matches the overall hash of the hash table, verifying the authenticity of each chunk of the plurality of chunks of the content (fig 9 and paragraph [0148]-[0151]). Bolosky does not explicitly teach placing the overall hash into a **certificate**. However, in an analogous art, Puhl teaches a method wherein a hash result is placed into a **certificate** (column 4, lines 29-30). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bolosky's method to include placing the overall hash into a **certificate**. This would have been obvious because person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to verify the integrity of the content by comparing computed hash with the hash result stored in the certificate (column 4, lines 28-30).

### Regarding Claim 23

Bolosky and Puhl teach all limitation of the claim as applied to claim 22 above and furthermore Bolosky teaches a method, wherein determining whether the recalculated overall hash of the hash table matches the overall hash of the hash table comprises: recalculating the overall hash of the hash table to create the recalculated overall hash; comparing the recalculated overall hash to the overall hash; and if the recalculated overall hash matches the overall hash and a signature on the



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certificate is valid, verifying authenticity of the hash table (paragraph [0148]-[0151]).

**Regarding Claim 24**

Bolosky and Puhl teach all limitation of the claim as applied to claim 22 above and furthermore Bolosky teaches a method, wherein verifying the authenticity of each chunk of the plurality of chunks comprises for each chunk: recalculating a hash of the chunk to create a recalculated chunk hash of the chunk; comparing the recalculated chunk hash to the chunk hash of the chunk; and if the recalculated chunk hash matches the chunk hash of the chunk, verifying the authenticity of the chunk (paragraph [0148]-[0151]).

**Regarding Claim 25**

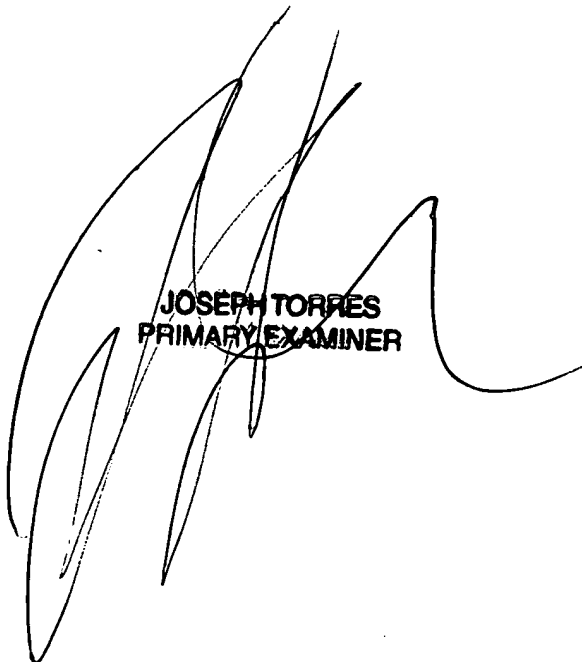
Bolosky and Puhl teach all limitation of the claim as applied to claim 24 above and furthermore Bolosky teaches a method, wherein contemporaneously with recalculating the hash of the chunk to create the recalculated chunk hash of the chunk, further comprising: decrypting the chunk to provide a chunk of decrypted content of the content package (paragraph [0156]); and rendering the chunk of decrypted content of the content package (paragraph [0160]).

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### Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



**JOSEPH TORRES**  
**PRIMARY EXAMINER**

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Patent Examiner  
Art Unit 2133  
08/17/05